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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,743

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Stephen C P Joseph

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03/26/2010

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EXAMINER

GONZALEZ, MADELINE

ART UNIT

PAPER NUMBER

1797

NOTIFICATION DATE

DELIVERY MODE

03/26/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/533,743	Applicant(s) JOSEPH, STEPHEN C P	
	Examiner MADELINE GONZALEZ	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7,9-11 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7,9-11 and 13-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/09/10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to applicant's amendment dated January 14, 2010

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 9-11 and 13-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over a combination of Joseph et al. (WO 02/085533 A1) [hereinafter Joseph WO02], Joseph et al. (WO 98/32539) [hereinafter WO98] and Lutz et al. (U.S. 2002/0148763) [hereinafter Lutz].

With respect to **claims 10, 11 and 21**, Joseph WO02 discloses a paint reservoir attached to a spray gun, as shown in Fig. 24, having:

- a container 309 having a lid, a collapsible sidewall (see page 24, lines 15-21) and a base on which the side wall can stand unsupported in an upright position, as shown in Fig. 21;
- said container 309 capable of being mounted on a hand held spray gun 310 for supply of the liquid to an inlet of the spray gun 310 through an opening in the lid, and said lid also having a filler opening 330, separate from the

opening for connection to the spray gun 310, for adding liquid to the container 309;

- a collapsible filter that fits in the filler opening 330 (see page 27, lines 16-22);
- the container including an open-topped container 309 and a lid 310 arranged to close the open end of the container 309 and forming the end wall in which the filler opening 330 is formed;
- the container 309 being collapsible as liquid is withdrawn from the container 309 (see page 24, lines 15-21).

Joseph WO02 **lacks** the filter having a tubular body, a support collar integral with the tubular body, the support collar connected to a cage that surrounds the tubular body of the filter, and the cage being flexible.

Joseph WO98 teaches a spray gun and reservoir assembly, as shown in Fig. 12, having a filter 37 having a body closed at one end and open at the other end, the open end being provided with a collar 38 integral with the body and fits in a filler opening. The filter 37 filters the paint before exiting the spray gun. The body of the filter can have any shape (see page 14, lines 17-18). It would have been obvious to provide the assembly disclosed by Joseph WO02 with a filter having a collar as taught by Joseph WO98 in order to filter the paint before using the spray gun and to properly support the filter at the filler opening (see page 14, lines 4-16). Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a tubular shape to the filter disclosed by Joseph WO02 since the courts have held that a change in shape is a matter of choice which a person of ordinary skill in the art would

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have found obvious absent persuasive evidence that the particular configuration was significant (see *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)), and since Joseph WO98 is suggesting that any shape can be used (see page 14, lines 17-18).

With respect to the support collar connected to a cage that surrounds the tubular body of the filter, and the cage being flexible: Lutz teaches a screen cylinder 64, as shown in Fig. 2, disposed in a perforated frame 68 (cage), said frame 68 retains and support a screen media 66 during operation. The frame 68 further includes retainer rings 82 (collar) fixed at the ends of the frame 68. The frame 68 is flexible and can be used for any screening application because, among other things, it decreased likelihood of crack-related failure (see paragraph 0098). It would have been obvious to provide the filter disclosed by the combination of Joseph WO02 and Joseph WO98 with a flexible cage connected to the collar and surrounding the tubular body of the filter, as taught by Lutz, in order retain and support the filter and to decreased the likelihood of crack-related failure (see paragraph 0098).

The limitation “sufficiently flexible to allow the filter and cage to collapse along the whole length of the filter as the container side wall collapses” in claim 10, lines 19-20, claim 11, lines 15-16, and claim 21, lines 14-15, is considered to be a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, the filter and cage disclosed by Lutz

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is sufficiently flexible and capable of allowing the filter and cage to collapse along the whole length of the filter as the container side wall collapses.

With respect to **claim 7**, the combination of Joseph WO02, Joseph WO98 and Lutz discloses wherein the cage 68 includes a plurality of legs extending from the support collar 82 at the open end of the tubular body, as shown in Fig. 2 of Lutz, to a base member at the closed end of the tubular body, as shown in Fig. 12 of Joseph WO98.

With respect to **claim 9**, the combination of Joseph WO02, Joseph WO98 and Lutz discloses wherein the tubular body of the filter is provided with at least one annular support hoop 94 spaced from the collar 82, as shown in Fig. 8 of Lutz.

With respect to **claim 13**, Joseph WO02 discloses wherein the lid 210, 310, is provided with an extension sleeve or cage 280, 281 surrounding the container 209, 309, as shown in Fig. 19.

With respect to **claim 14**, Joseph WO98 discloses wherein the elongate tubular body of the filter 37 is tapered toward the closed end, as shown in Fig. 12.

With respect to **claim 15**, Joseph WO02 discloses wherein the tubular body of the filter is oriented at an angle that is not parallel to the side wall of the container 309, as shown in Fig. 24.

With respect to **claim 16**, Joseph WO02 discloses wherein the container 309 is characterized by a shape having a longitudinal axis and the filler opening 330 is offset from the container longitudinal axis, as shown in Fig. 24.

With respect to **claim 17**, Joseph WO02 discloses wherein the filler opening 330 is not an open end of the container 309, as shown in Fig. 24.

With respect to **claim 18**, Joseph WO02 discloses wherein the container 309 includes a container 309 and a circular lid, and the filler opening 330 has a diameter of one-half the diameter of the lid or less, as shown in Fig. 24.

With respect to **claim 19**, Lutz discloses wherein the at least one annular support hoop 94 is integral with the filter body, as shown in Fig. 8.

With respect to **claim 20**, Joseph WO02 discloses wherein the container 309 is cylindrical, the lid is circular, the filler opening 330 in the lid is larger than the opening for connection to the spray gun, and both of said openings are offset from the longitudinal axis of the container, as shown in Fig. 24.

Response to Arguments

Applicant's arguments with respect to claims 7, 9-11 and 13-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MADELINE GONZALEZ whose telephone number is (571)272-5502. The examiner can normally be reached on M, W, Th, F- 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Duane Smith/
Supervisory Patent Examiner, Art
Unit 1797

Madeline Gonzalez
Patent Examiner
March 24, 2010